

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Smt Ramdenu Somasundari W/o Ramgopal R/o Vinayakapuram (V) Aswaraopet (M) Khammam (D) against the orders of the Additional Agent to Government, Bhadrachalam, Khammam Dist.in CMA No: 261/2007, dated: 24-07-2010 in respect of land measuring Ac.5-20 gts.in Sy.No.249 situated at Asupaka (V), Aswaraopet(M), Khammam District - Dismissed - Orders - Issued

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TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 30

Dated: 19-05-2017

Read the following:-

- 1) Revision Petition filed by Smt Ramdenu Soma Sundari W/o Ramgopal R/o Vinayakapuram (V) Aswaraopet (M) Khammam District dated 06.10.2010.
- 2) Govt.Memo.No.9286/LTR.2/2010, dt.02.11.2010.
- 3) From the Addl.Agent to Government, Bhadrachalam, Khammam R.P.No.9286/LTR-2/2010(CMA No.261/2007), dt.24.2.2013.

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ORDER

In the reference 1<sup>st</sup> read above, Smt Ramdenu Somasundari W/o Ramgopal R/o Vinayakapuram (V) Aswaraopet (M) Khammam (D) has filed Revision Petition against the orders of the Additional Agent to Government, Bhadrachalam, Khammam Dist.in CMA No: 261/2007, dated: 24-07-2010 in respect of land measuring Ac.5-20 gts in Sy.No.249 situated at Asupaka (V), Aswaraopet(M), Khammam District.

2. In the reference 2<sup>nd</sup> read above, the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 3<sup>rd</sup> read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as under;

- The orders passed by the both authorities below are illegal, arbitrary and contrary to the provisions of LT regulation 1/1959.
- the both the authorities failed to consider the fact the possession of the petitioner in the scheduled land is long prior to the commencement of the regulation 1959, therefore they have jurisdiction to adjudicate anything in the aspect of the possession of the petitioner.
- The both the authorities failed to consider the provisions of section-3 (b), section 6 of regulation 1959 wherein it was clearly stated that if the non tribal's are in possession of the property prior to the commencement of the act their possession will not be disturbed.
- The both the authorities failed to consider the aspect that the 3rd Respondent herein neither made a complaint to the authorities nor given any representation to the authorities, but the 2nd Respondent initiated the proceedings as though the 3rd Respondent made a complaint. Therefore, the proceedings of the both the authorities are liable to be set aside.
- The both authorities ought to have verified pahanies before passing the impugned orders instead of throwing burden upon the petitioner.
- The both the authorities should have seen the pattadar pass book issued by the revenue authorities in favour of the petitioner after full-fledged enquiry.
- The both the authorities failed to consider the aspect that the transfer is internal family transaction between sister-in-law to sister-in-law only. Therefore, this transaction is not violative under the provisions of the Regulation, 1959.

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- Originally an LTR case No.169/03/SPT was initiated before the 2nd Respondent between Nallapu Vijaya laxmi (NT) as petitioner (3rd Respondent herein) and Smt.Ramadenu Somasundari (NT) as Respondent (Appellant herein). The schedule land is Ac.5-20 in Sy.No.249 of Asupaka Village of Aswaraopeta Mandal. The 2nd Respondent Spl.Dy.Collector (TW) Bhadrachalam herein after due enquiry passed ejectment orders on 25-01-2005 in favour of the Govt. to assign the schedule land to poor eligible tribals. Against the said order, Smt.Ramadhenu Soma Sundari who is the Revision petitioner has filed CMA No.261/07 before the 1st Respondent (Addl.Agent to Govt.Bhadrachalam) and the 1st Respondent after due enquiry dismissed the appeal on 07-08-2010. Hence this Revision petition filed by the Revision Petitioner.

(contd...2)

- The main contention of the Revision Petitioner is that she is in possession of the scheduled land since 1966 and partitioned this property with N Vijaya Laxmi (3rd Respondent herein) in the year 2001 who is her sister-in-law and the transaction are within the family.
- The Revision Petitioner has not filed any documentary proof that she is in possession of the schedule land from 1966 onwards without any documentary proof such as filling of pahani extracts from 1966, the Revision Petitioner possession cannot be accepted. Therefore the lower court rightly rejected the claim. As per the regulation, the LTR case can be initiated suo-motto on application. This case is initiated on the report of the Spl.Dy.Tahsildar (TW) Bhadrachalam dt:10-10-2003. Basing on the said report, the 2nd Respondent initiated the case. The Revision Petitioner herein is not attended before the 2nd Respondent. Therefore there is no necessity to take a compliant from the 3rd Respondent. The Revision Petitioner is claiming the property through un-registered partition deed dt:25-06-2001 which is on white paper. The said document has no value in the eye of law. On the other hand when the land is in her possession since 1966, there is o necessity for her to take the land on partition.
- As per the Regulation, the burden is on non tribal to prove her case by filing the documents. Before the lower court, the Revision Petitioner has not filed any pattadar pass books. She filed in this court only partitioned deed 25-06-2001 which is un-registered on a white paper, Xerox copy of pattadar pass books and a certificate date 18-01-2006 issued by Panchayath Secretary Asupaka All those are no way helpful to her case.
- In view of the above, that the orders passed by the lower courts the Respondent herein are proper and legally correct and in accordance with the provisions of APSA Land Transfer Regulation 1/59 as amended by 1/70.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Government, Bhadrachalam it is observed that;

- The Revision Petitioner's main plea is that she is in possession of the land to an extent of Ac 5.20 gts in Sy.No.249 of Asupaka(V), Aswaraopet Mandal, Khammam District got it through a partition deed executed by her sister-in-law Nallapu Vijayalaxmi W/o Laxman Rao and Nallapu Leela Prasad S/o Laxman Rao and that she has been in continuous position from 1966 and hence the transfer is not hit by Act 1 of 59 read with Act 1 of 70.
- The Revision Petitioner claims that she has been in continuous possession of the land prior to the commencement of LTR 1959 (Act 1 of 1959) i.e. 1966 and her sister-in-law Smt.Nallapu Vijaya Laxmi and her Son-in-law Nallapu Leela Prasad given in writing the partition on 25.06.2001 made by her brother Sri Lakshman Rao orally much earlier to facilitate her to get the land transferred in her name.
- She has not filed any proof to establish that her brother has partitioned the properties owned by him. If such is the case partition should contain full details of the property held by him and the details of each property given to his successors / relatives. Sri Lakshman Rao is having wife and children. There are no details of properties given to his wife and children. Moreover the partition deed is prepared to have been given by his wife and son on 25.06.2001 whereas the Revision petitioner claims that she has been is possession of the land since 1966.
- As seen from the pahanies for the years 1954-55 to 1967-68 produced by Revision Petitioner Sri Nallapu Ramaiah is pattedar of land to an extent of Ac. 14-10 gts in S.No.249 and during 1968-69 Sri Ranga Rao is shown as title holder because of partition. She has not produced any record to prove that Laxman Rao is pattedar of the said land. Even she could not file any pahani record to prove that she was in possession of the said land. Hence it is proved beyond doubt that the partition deed on plain paper is created one to overcome the LTR Act.

6. Government after careful examination of the matter here by dismiss the Revision Petition filed by Smt Ramdenu Somasundari W/o Ramgopal R/o Vinayakapuram (V) Aswaraopet (M) Khammam District and upholds the orders of the Additional Agent to Government and Project Officer, ITDA, Bhadrachalam dated 24-07-2010 in CMA No: 261/2007.

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7. The District Collector, Erstwhile Khammam now Bhadradri Kothagudem District is directed to take immediate necessary action accordingly. The original case records received in the reference 3<sup>rd</sup> read above are returned herewith to the Additional Agent to Government, Bhadrachalam.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA  
SECRETARY TO GOVERNMENT

To

Smt Ramdeni Somasundari W/o Ramgopal R/o Vinayakapuram (V)  
Aswaraopet (M) Khammam District Erstwhile  
Khammam District now Bhadradri Kothagudem District.  
2)The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Bhadradri Kothagudem District(w.e.)

Copy to :

The Spl. Deputy Collector(TW), Bhadrachalam,  
Now Bhadradri Kothagudem District for information and necessary action.  
The Tahsildar, Aswaraopet Mandal, Now Bhadradri Kothagudem District  
for necessary action.

Smt.Nallapu Viajaya Laxmi W/o Laxman Rao (Respondent)

r/o Vianayakapuram (v), Aswaraopeta Mandal, Khmammam

M/s A.S.C.Bose, Advocate (Counsel for Respondent)H.No.11-4-649/2, Flat No.5

Srivilas Apartment, Near Ganja Jamuna Bakery,A.C.Guards, Hyderabad - 500 004.

Sri S.R.Sanku, Advocate. Plot.No.3, H.No.11-20-5,

Huda colony, Saroornagar, Hyderabad - 500 035

P.S to M(TW)/P.S. to Prl.Secretary(TW)

SC/SF

//FORWARDED::BY ORDER//

SECTION OFFICER